UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,897	04/12/2001	Kenichi Ueyama	205733US0	1680

22850 7590 05/07/2002

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

EXAMINER
GOLLAMUDI, SHARMILA S

ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 05/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/832,897	UEYAMA ET AL.	
	Examiner	Art Unit	
	Sharmila S. Gollamudi	1616	

-- The MAILING DATE of this communication app ars on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 April 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claims 1-6 are included in the prosecution of this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Altobelli et al (5110318).

Altobelli et al teaches a composition and method for coloring/conditioning hair. The composition contains oil and a solvent (Note examples). The method of use involves covering the treated hair with a cap and heating the hair for 13-30 minutes at 80-120 Fahrenheit under a heated salon hood (col.6, lines 29-44).

Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagel (4494557).

Nagel teaches a method of conditioning the hair with a composition that contains KERAPHIX (glycerin, safflower oil, cetyl alcohol, etc.). The hair is treated with the composition, covered with a plastic cap, and heat is applied for fifteen to 25 minutes.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel (4494557) in view of Altobelli et al (5110318).

Nagel teaches a method of conditioning the hair with a composition that contains KERAPHIX (glycerin, safflower oil, cetyl alcohol, etc.). The hair is treated with the composition, covered with a plastic cap, and heat is applied for fifteen to 25 minutes.

Nagel does not teach the temperature that the hair is heated under the dryer.

Altobelli et al teaches a composition and method for coloring/conditioning hair. The composition contains oil and a solvent (Note examples). The method of use involves covering the treated hair with a cap and heating the hair for 13-30 minutes at 80-120 Fahrenheit under a heated salon hood (dryer) (col.6, lines 29-44).

Altobelli teaches the use of a hair dryer at the instant temperature and since Nagel also uses a dryer to heat the hair, it is deemed obvious to one of ordinary skill in the art at the time the invention was made to be expect Nagel's temperature to be in the temperature of Altobelli's.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel (4494557) or Altobelli et al (5110318) in view of Hulett et al (4459471).

Nagel teaches a method of conditioning the hair with a composition that contains KERAPHIX (glycerin, safflower oil, cetyl alcohol, etc.). The hair is treated with the composition, covered with a plastic cap, and heat is applied for fifteen to 25 minutes.

Altobelli et al teaches a composition and method for coloring/conditioning hair. The composition contains oil and a solvent (Note examples). The method of use

involves covering the treated hair with a cap and heating the hair for 13-30 minutes at 80-120 Fahrenheit under a heated salon hood (dryer) (col.6, lines 29-44).

The above references do not teach the use of a heating cap.

Hulett et al teaches an electrical heating cap to heat the cap to an optimal temperature and maintain the temperature during the desired hair-conditioning period (Note abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Hulett et al's cap for Altobelli's or Nagel's composition. One would be motivated to do so since Huelett teaches that the electrical cap can maintain an optimal temperature level for conditioning the hair without burning the scalp.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (5116607) in view of Rueven (5850636).

Jones teaches a hair composition containing castor oil, PEG, petroleum (col. 2, lines 22-59).

Jones does not teach heating the treated hair.

Reuven teaches a heatable cap. The reference teaches using the cap to provide heat for hair oil treatments to aid in the penetration of the oil into the hair (col. 2, lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Reuven's hair cap for Jones' invention since heating the treated hair allows deeper penetration of the composition into the hair to soften and condition the hair, as taught by Reuven.

Conclusion

Any inquiry concerning this communication from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is (703) 305-2147. The examiner can be normally reached M-F from 7:30 am to 4:15pm.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached at (703) 308-4628. The fax number for this organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is (703) 308-1235.

April 29, 2002
SSG

JOSE' G. DEES
SUPERVISORY PATENT EXAMINER
1616